

DEPARTMENT OF STATE REVENUE

**LETTER OF FINDINGS NUMBER: 99-0131 MVE
MOTOR VEHICLE EXCISE TAX
FOR TAX PERIOD: DECEMBER 1996 THROUGH NOVEMBER 1998**

NOTICE: Under IC 4-22-7-7, this document is required to be published in the Indiana Register and is effective on its date of publication. It shall remain in effect until the date it is superseded or deleted by the publication of a new document in the Indiana Register. The publication of this document will provide the general public with information about the Department=s official position concerning a specific issue.

ISSUES

I. Motor Vehicle Excise Tax – Imposition

Authority: IC 9-13-2-78; IC 9-18-2-1

Taxpayer protests the imposition of the motor vehicle excise tax on his 1994 Dodge.

II. Tax Administration – Penalty

Authority: IC 6-8.1-10-2.1

Taxpayer protests the imposition of a ten percent penalty.

STATEMENT OF FACTS

Prior to the assessment period, taxpayer was a resident of Michigan. In December 1996, taxpayer gained employment in Indiana. Taxpayer spent the week in Indiana and returned to Michigan for the weekends. Taxpayer's position lasted one year. Taxpayer then took another position in Indiana which required a great deal of travel. Taxpayer listed his father's address, in Indiana, as his residence. Taxpayer acquired a

chauffeur's license in Indiana. Taxpayer filed Indiana resident income tax returns and received all of his income from sources within Indiana throughout the

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assessment period. Taxpayer registered his 1994 Dodge in Indiana in November 1998. Taxpayer was assessed the motor vehicle excise tax for the period of December 1996 to November 1998. Taxpayer protested this assessment. Additional relevant facts will be provided below, as necessary.

I. Motor Vehicle Excise Tax – Imposition

DISCUSSION

Pursuant to Indiana Code Section 9-18-2-1, within sixty days of becoming an Indiana resident a person must register all motor vehicles owned by that person which will be operated in Indiana.

Indiana Code section 9-13-2-78 defines "Indiana resident" as a person who is one of the following:

- (1) A person who has been living in Indiana for at least one hundred eighty-three (183) days during a calendar year and who has a legal residence in another state. However, the term does not include a person who has been living in Indiana for any of the following purposes:
 - (A) Attending an institution of higher education.
 - (B) Serving on active duty in the armed forces of the United States.
- (2) A person who is living in Indiana if the person has no other legal residence.
- (3) A person who is registered to vote in Indiana.
- (4) A person who has a child enrolled in an elementary or secondary school located in Indiana.
- (5) A person who has more than one-half (1/2) of the person's gross income derived from sources in Indiana ... However, a person who is considered a resident under this subdivision is not a resident if the person proves by a preponderance of the evidence that the person is not a resident under subdivisions (1) through (4).

Per IC 9-13-2-78, taxpayer became an Indiana resident in December 1996. Taxpayer was present in Indiana a majority of the time and earned more than one-half his income in Indiana. Indiana Code 9-18-2-1 states taxpayer had sixty days to register his vehicle after becoming an Indiana resident. Taxpayer failed to properly license and register his vehicle in Indiana upon becoming a resident.

FINDING

Taxpayer's protest is denied.

II. Tax Administration – Penalty

DISCUSSION

Taxpayer protests the imposition of a ten percent penalty on his failure to properly license and
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register his vehicle in Indiana.

Pursuant to IC 6-8.1-10-2.1(e), “A person who wishes to avoid the penalty imposed under this section must make an affirmative showing of all facts alleged as reasonable cause for the person’s failure...”

Taxpayer argues he had reasonable cause for not immediately registering and licensing his vehicle in Indiana.

Taxpayer had maintained property in Michigan and believed it was proper to continue registering the vehicle in Michigan. Later, taxpayer began to list his father’s Indiana residence as his own and applied for an Indiana driver’s license but was not directed by the Bureau of Motor Vehicles to register his vehicle at that time. Taxpayer believed the BMV would have directed him to register his vehicle if it were required. Taxpayer waited for the Michigan registration to expire before registering in Indiana.

FINDING

Taxpayer’s protest is sustained. Taxpayer has demonstrated reasonable cause for his failure to properly register his vehicle in Indiana.